IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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FRIDAY, THE TWENTYNINTH DAY OF JULY

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

* * *

WP.No.15374 OF 2005

Between:

Sri Rama Yuvajana Seva Sangham,

Represented by its Secretary,

Mr.Indala Eshwara Rao … Petitioner

Versus

The District Collector,

Visakhapatnam ,

Visakhapatnam district &Ors.. …. Respondents

Counsel for the Petitioner: Mr.B.M.Baptro

Counsel for the Respondents: GOVT.PLEADER FOR REVENUE

O R D E R

This writ petition is filed by the Secretary of Sri Rama Yuvajana Seva Sangahm, Pedagantyada RH Colony, Visakhapatnam, seeking to direct the first respondent to take appropriate action in accordance with law in respect of the land to an extent of 2000 sq.yards in survey no.16/15 situate at Gollalapalem hamlet of China Nadupuru village, Pedagantyada Mandal, Viskhapatnam district by setting aside the impugned endorsement RC.No.140/2004, S.A., dated 11-11-2004 of the second respondent with all consequential benefits.

The petitioner-sangem submit that the villagers of China Nadupuru village have been in possession of land to an extent of 2000 sq.yards of land, which is a rehabilitation colony of steel plant, Visakhapatnam situate near Gollalapalem hamlet of China Nadupuru, Pedagantyada Mandal, Visakhapatnam district. The land in question is being used right from 1980 by the villagers by establishing a school and a Ramalayam temple and proposal was made to construct a Kalyana Mandapam

and the same is pending due to paucity of funds. While things stood thus, the same land in question was encroached upon by five personnel; namely, Me. Yellamanchili Simhachalam, Yellamanchili Tata Rao, Mr.Yellamanchili Appalaraju, Mrs.Viyyapu Pentamma and Mr.Botta Appala Naidu, who are the employees of Steel Plant got employment as well as individual plots under rehabilitation scheme in the land acquisition proceedings initiated for the purpose of Viskhapatnam Steel Plant.

Aggrieved by the encroachment of the land in question, the above personnel and the petitioner being the secretary of the said sangem carried the matter to the notice of the respondents on behalf of the villagers. Accordingly, the Special Grade Dy.Collector, Land Protection, Visakhapatnam inquiried into the matter and held that the encroachment was illegal and recommended for cancellation of house sites, which were allotted to the land encroachers under fabricated documents vide a detailed report bearing RC.No.34/2004 LGRI, dated 28-7-2004. Thereafter, no action has been taken on the said report. Aggrieved by the inaction of the first respondent and others, the petitioner sangem filed WP.No.13644 of 2004 and the same was disposed of on 24-8-2004 with a direction to the first respondent to take action into the matter within two months.

The petitioner-sangem submit that in compliance of the order dated 24-8-2004 passed in WP.No.13644 of 2004, the first respondent issued Proceedings RC.No.4003/2004/E2 dated 01-10-2004 requesting the second respondent to take immediate action for cancellation of the plots illegally allotted to the above mentioned persons and further directed the Mandal Revenue Officer, Pedagantyada Mandal to resume the land to Government after obtaining cancellation orders from

the second respondent. Thereafter, surprisingly, the second respondent through an endorsement dated 11-11-2004 communicated the petitioner-sangem that he examined the matter and declared that it is not possible to cancel the plots allotted to the above named encroachers. The impugned proceedings dated 11-11-2004 of the second respondent is contrary to the positive direction of the first respondent, as it was passed on the one hand without inquiry and on the other hand it was against the detailed report dated 28-7-2004, which was drawn after inquiry by the Spl.Gr.Dy.Collector, Land Protection, Visakhapatnam. The action of the second respondent and also the impugned proceedings in question are liable to be interfered with on the sole ground that it is disobeying the proceedings dated 01-10-2004 of the first respondent, which were drawn in compliance of the orders passed by this court in the above writ petition. The impugned action and order in question is also not warranted and unsustainable and liable to be interfered with, as the second respondent has no powers to draw negative conclusion in support of the land encroachers/land grabbers as long as the inquiry report dated 24-7-2004 of the Spl.Gr.Dy.Collector (LP) Viskhapatnam and also the direction of the first respondent are in force. After receipt of the impugned endorsement of the second respondent, having found no option, the petitioner-sangem represented the matter to the first respondent by submitting a representation dated 07-3-2004 and no action has been taken so far. Therefore, the inaction of the first respondent and action of the second respondent is contrary to the public interest at large and also in the interest of Visakhapatnam Steel Plant is arbitrary, illegal and hit by Article 13 and 21 of the Constitution of India.

When the matter cam-up for admission on 15-7-2005, Mr.B.M.Patro, the learned counsel appearing for the petitioner sought time to take steps to file implead petitioners. On 20-7-2005 the matter was listed and the learned counsel for the petitioner filed implead petition WPMP.NO.20061 of 2005 seeking to implead the proposed respondents as respondents 3 to 7 in the main writ petition. The implead respondents 3 to 7 engaged Dr.P.Vijayakumar, learned counsel, who entered his appearance on behalf of the proposed respondents 3 to 7, sought one week time to file counter.

In the counter-affidavit filed on behalf of implead respondents 3 to 7, it is stated that the respondents 3 to 7 are the land oustees of Visakhapatnam Steel Plant and they were given “R” cards. Under the scheme, they were given house-sites in rehabilitation colony under Proceedings nO.126B/SO/B, dated 20-4-1998 by the Special Officer, Land Acquisition, Steel Plant, Visakhapatnam and assignments in pursuance of the said orders by the Mandal Revenue Officer on 17-5-2004 under Para 21 of the Board Standing Orders and they have been in possession and enjoyment of the same by residing therein with their families. They are paying Electricity/Municipal bills. Thus, having been allotted the house sites by the duly constituted committee, they have been in possession and enjoyment of the same. As such, they are not land grabbers. Further the order of the Bench of this court dated 24-8-2004 directing the respondent-Collector to initiate action basing on a cryptic report of Spl.Grade Dy.Collector has been carried out in favour after detailed enquiry, in which the petitioner also participated. When another enquiry was conducted on the orders of this court, the so-called report dated 28-8-2004 has no

effect. The so-called enquiry conducted by the Spl.Gr.Dy.Collector is behind their back and at the instance of the writ petitioner is vitiated for non-compliance of the principles of natural justice. His report is not made available to them though the same is against to them. However, it is not known as to how the same is available to the writ petitioner, who has not even explained in the writ petition. On that score itself, this writ petition is liable to be dismissed. When some other third parties raised the same issues, Spl.Gr.Dy.Collector, Land Acquisition, Steel Plant, concluded in their favour and against the action of harassing them by the third parties, who have been set up by the petitioner. It is submitted that the petitioner is a busy body engaged in this type of activity and this writ petition is in the nature of public interest litigation in the absence of any description and its interest, duly explaining the source of information and records is not maintainable under law. Further the writ petitioner if at all, has any grievance against the issuance of proceedings or assignment in their favour, the petitioner has a remedy of appeal under paragraphs 15 to 20 of Boards Standing Orders 15. As such, making any representation without following the procedure contemplated is not maintainable under law.

Further the fourth respondent has filed OS.No.378 of 2004 on the file of the Court of Junior Civil Judge, Gajuwaka, Visakhapatnam against the petitioner and others and obtained interim injunction not to interfere with his possession and enjoyment. The said factum of pendency of the suit is not mentioned in this writ petition. Moreover, the writ petitioner, earlier was directed to execute a bond for maintaining peace by the Revenue Divisional Officer, when he tried to interfere with peaceful living. Thus, the petitioner is rendering their lives miserable and the nefarious activities outside

and also by means of this speculative litigation is nothing but to harass them. The petitioner-sangem has no locus standi to file the present writ petition in the light of the orders passed in WP.No.13644 of 2004 and it is for the revenue officials to take further action in this regard and the public interest litigation cannot be converted into adversarial litigation and the duty of the petitioner ends when he has brought to the notice of the court and officials about his grievance, there ends his duty. His persuasion reflects that this not a public interest litigation.

After hearing both sides and taking into consideration the detailed counter-affidavit filed by the implead respondents 3 to 7, it appears that the impugned action of the respondents in this writ petition was considered by the Division Bench of this court. In view of the above, I see no reason to interfere in the matter because the petitioner-sangem has not approached this court with clean hands and suppressed material facts. Therefore, the first respondent is directed to prosecute the petitioner-sangem within two weeks from the date of receipt of a copy of this order for approaching this court and filing this type of public interest litigation into adversarial litigation, which cannot be converted on one pretext or the other.

With the above observation, the writ petition is dismissed. No costs.

JULY 29th, 2005. ----------

l s L. ELIPE DHARMA RAO , J.